

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

CLARK KENNEDY, II,

Plaintiff,

v.

CIVIL ACTION NO. 1:08-0891

PAUL KENNEDY, et al.,

Defendants.

**MEMORANDUM OPINION AND ORDER**

Pending before the court is defendants' motion for summary judgment. (Docs. # 14 and 16).<sup>\*</sup> In his response to the motion for summary judgment, plaintiff contended that the motion was premature as discovery had not yet been completed. With the agreement of the parties and as discussed at the pretrial conference, defendants' motion for summary judgment is DENIED without prejudice. Defendants have permission to file another motion for summary judgment by December 11, 2009.

The Clerk is directed to send copies of this Memorandum Opinion and Order to counsel of record.

**IT IS SO ORDERED** this 24th day of November, 2009.

ENTER:



David A. Faber

Senior United States District Judge

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<sup>\*</sup> Both an original and a facsimile of defendants' motion were filed. Both docket entries should be terminated with the entry of this order.